

**RECORDING REQUESTED BY
CITY OF SAN DIEGO
PLANNING & DEVELOPMENT REVIEW
DEPARTMENT**

Attachment #5

**WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**PLANNED DEVELOPMENT PERMIT/COASTAL DEVELOPMENT PERMIT 40-0270
GRINGO'S CANTINA
CITY COUNCIL**

This Permit is granted by the City Council of the City of San Diego to TAYLOR PROPERTIES TRUST (VERNON E. TAYLOR, TRUSTEE), Owner and BRETT MILLER (dba GRINGO'S CANTINA), Permittee pursuant to the regulations and ordinance provisions in effect for the subject property per the Municipal Code of the City of San Diego. The 0.43-acre site is located at 4474 Mission Boulevard in the CV-1-2 zone, within the Pacific Beach community. The project site is legally described as Lots 11-16, Block 226, Pacific Beach Amended Trustees Map 791.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner and Permittee to remodel and construct a one-story addition to an existing one-story restaurant, with associated landscape and hardscape improvements, described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A," dated October 17, 2000, on file in the Office of Planning and Development Review Department. The facility shall include:

- a. A 5,575 sq. ft., one-story restaurant building with 1,049 sq. ft. of outdoor dining area;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities; and
- d. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted Community Plan, California Environmental Quality Act guidelines, public and private improvement requirements of the City Engineer, the base and overlay zone(s), conditions of this permit, and any other applicable regulations of the Municipal Code in effect for this site.

1. Construction, grading or demolition must commence and be pursued in a diligent manner within 36 months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within 36 months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.

2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this permit be conducted on

the premises until:

- a. The Permittee signs and returns the Permit to the Planning and Development Review Department; and
 - b. The Permit is recorded in the office of the San Diego County Recorder.
3. Unless this permit has been revoked by the City of San Diego the property included by reference within this permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless otherwise authorized by the City Manager.
 4. This permit may be canceled or revoked by the City if the City Manager and/or City Attorney concludes that there is any material breach or default in any of the conditions of this permit.
 5. This permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.
 6. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.
 7. Issuance of this permit by the City of San Diego does not authorize the applicant for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. Section 1531 et seq.)
 8. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
 9. Before issuance of any building permits, complete working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated October 17, 2000, on file in the Office of the Planning and Development Review Department. No change, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.
 10. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded special rights which the holder of the Permit is obtaining as a result of this Permit. It is the intent of the City that the Owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner complies with all the conditions of the Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new Permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the Permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a

hearing de novo and the discretionary body shall have the absolute right to approve, disapprove or modify the proposed Permit and the condition(s) contained therein.

11. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the Coastal Commission of the Notice of Final Action, following all appeals.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

12. Prior to building occupancy, a fossil fuel filter shall be incorporated in the storm drain catch basin located in the southeast corner of the project's parking lot, in a manner satisfactory with the City Manager (or designated representative).

ENGINEERING REQUIREMENTS:

13. Prior to building occupancy, the applicant shall conform to Section 62.0203 of the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

14. Prior to issuance of building permits, the applicant shall assure, by permit and bond, the replacement of the existing driveway on Garnet Avenue with full height curb, gutter and sidewalk, the replacement of the existing driveway on Mission Boulevard with a 24-foot driveway, and the replacement of curb and sidewalk along Mission boulevard, satisfactory to the City Engineer.

15. Prior to the issuance of any building permits, the applicant shall obtain an Encroachment Removal Agreement, from the City Engineer, for landscaping in Mission Boulevard.

PLANNING/DESIGN REQUIREMENTS:

16. No fewer than 28 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "A," dated October 17, 2000, on file in the Office of Planning and Development Review Department. Parking spaces shall comply at all times with Chapter 14, Article 2, Division 5 of the Land Development Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

17. There shall be compliance with the regulations of the base and overlay zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the base and/or overlay zone(s), the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this permit establishes a provision which is more restrictive than the corresponding regulation of the base and/or overlay zone(s), then the condition shall prevail.

18. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the base and/or overlay zones, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.

19. A topographical survey conforming to applicable provisions of the Municipal Code may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this permit or a regulations of the underlying zone. The cost of any such survey shall be borne by the permittee.

20. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the base and overlay zone(s) which are in effect on the date of the submittal of the requested amendment.
21. No truck deliveries shall occur between the hours of 10:00 p.m. and 7:00 a.m.
22. No live entertainment shall be permitted on the outdoor patio area. The applicant shall make a reasonable effort to mitigate noise impacts upon adjacent properties, particularly after the hour of 10:00 p.m.
23. Loud, unnecessary or unusual noises that violate the Noise Ordinance of the Municipal Code Chapter 5, Article 9.5, shall not be permitted to emanate beyond the boundaries of the premises.
24. All signage associated with this development shall be consistent with sign criteria established by either of the following:
 - a. Approved project sign plan (Exhibit "A," dated October 17, 2000, on file in the Office of the Planning and Development Review Department) or;
 - b. Citywide sign regulations.
25. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
26. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
27. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
28. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure, in a manner satisfactory to the City Manager (or designated representative).
29. A bicycle rack for the use of patrons shall be installed and maintained on the premises consistent with Land Development Code standards.

LANDSCAPE REQUIREMENTS:

30. Prior to issuance of any construction permits for structures, complete landscape and irrigation construction documents consistent with the Landscape Technical Manual (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager (or designated representative) for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated October 17, 2000, on file in the Office of Planning and Development Review.
31. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the City Manager (or designated representative) for approval. Improvement plans shall identify a station point for each street tree location. Each street tree location must take into account a 40 square

feet area around each tree which is unencumbered by utilities. Location of street trees shall be identified and reserved during improvement activities and on all site plans prepared for subsequent building permit applications with actual installation taking place prior to issuance of a certificate of occupancy for the building permit associated with this project. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated October 17, 2000, on file in the Office of Planning and Development Review.

32. Prior to issuance of any Certificate of Occupancy it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections and to obtain a No Fee Street Tree Permit for the installation, establishment and on-going maintenance of all street trees.

33. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.

34. The Permittee or subsequent Owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way landscaping) consistent with the standards of the Landscape Development Manual unless long-term maintenance of street trees and right-of-way landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.

35. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager (or designated representative) within 30 days of damage or Certificate of Occupancy.

INFORMATION ONLY

36. Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit/tentative map, may protest the imposition within 90 days of the approval of this development permit/tentative map by filing a written protest with the City Clerk pursuant to California Government Code 66020.

APPROVED by the City Council of the City of San Diego on October 17, 2000.

**CITY COUNCIL
RESOLUTION NO. XXXX
PLANNED DEVELOPMENT PERMIT/COASTAL DEVELOPMENT PERMIT 40-0270
GRINGO'S CANTINA**

WHEREAS, TAYLOR PROPERTIES TRUST (VERNON E. TAYLOR, TRUSTEE), Owner, and BRETT MILLER (dba GRINGO'S CANTINA), Permittee, filed an application with the City of San Diego for a Planned Development Permit and Coastal Development Permit to allow the remodel and construction of a one-story addition to an existing one-story restaurant (resulting in 6,624 square-feet of restaurant and outdoor dining area), with associated landscape and hardscape improvements (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 40-0270), on an existing 0.43-acre site; and

WHEREAS, the project site is located at 4474 Mission Boulevard in the CV-1-2 zone, Coastal Overlay Zone (Coastal Commission Appeal Jurisdiction Area), Coastal Height Limit Overlay

Zone, Parking Impact Overlay Zone (Beach Impact Area), Transit Area Overlay Zone (Transit Corridor), and 1st Public Roadway, within the Pacific Beach Community; and

WHEREAS, the project site is legally described as Lots 11-16, Block 226, Pacific Beach Amended Trustees Map 791; and

WHEREAS, on August 17, 2000, the Planning Commission of the City of San Diego considered Planned Development Permit and Coastal Development Permit No. 40-0270 pursuant to Sections 131.0530, 126.0602, and 143.0402 of the Municipal Code of the City of San Diego; and

WHEREAS, on August 25, 2000, an appeal of the Planning Commission's decision was filed by Alfred C. Strohlein; and

WHEREAS, on August 28, 2000, an appeal of the Planning Commission's decision was filed by LaRose M. Hunt; and

WHEREAS, on August 29, 2000, an appeal of the Planning Commission's decision was filed by Gloria E. Olsen; and

WHEREAS, on August 30, 2000, an appeal of the Planning Commission's decision was filed by Donna Frye; NOW, THEREFORE,

BE IT RESOLVED by the Council of the City of San Diego as follows:

That the City Council adopts the following written Findings, dated October 17, 2000.

PLANNED DEVELOPMENT PERMIT FINDINGS:

A. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE APPLICABLE LAND USE PLAN.

The proposed development is consistent with the land use, intensity and design standards in effect for the subject property per the Pacific Beach Community Plan, the Progress Guide and General Plan, all of which recommend that the site be developed with pedestrian-oriented commercial land uses consistent with development, design and intensity standards of the CV-1-2 zone. The project will comply with the general purpose and intent of the CV-1-2 zone with respect to providing establishments catering to the dining needs of both tourists and the local population. The proposed development, therefore, will not adversely affect the applicable land use plan.

B. THE PROPOSED DEVELOPMENT WILL NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY, AND WELFARE.

The Planned Development Permit/Coastal Development Permit prepared for this project includes a number of conditions of approval that minimize potential impacts to the surrounding area, including: requirements for additional landscaping to minimize the visual impact of the development upon adjacent properties and rights-of-way; the installation of a fossil fuel filter on-site to reduce the amount of pollutants potentially discharged into the public drainage system; requirements for shading, adjusting, and shielding of all private outdoor lighting to assure that lighting is directed to fall only onto the subject property; the prohibition of rooftop mechanical equipment unless all such equipment is contained within a completely enclosed, architecturally-integrated structure; the required provision of off-street parking spaces consistent with City standards for this use at this location; the closure of an existing driveway on Garnet Avenue and the replacement of a non-complying driveway

along Mission Boulevard with a driveway satisfactory to the City Engineer, etc.

Therefore, the proposed project will not have a detrimental effect on the health, safety and welfare of persons residing or working in the community.

C. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE REGULATIONS OF THE LAND DEVELOPMENT CODE.

The project design will be consistent with the relevant regulations for this site per the Land Development Code, including design standards required under the Planned Development Permit and Coastal Development Permit processes.

D. THE PROPOSED DEVELOPMENT, WHEN CONSIDERED AS A WHOLE, WILL BE BENEFICIAL TO THE COMMUNITY.

The scale, height, concept architectural features, exterior materials, and landscape elements incorporated into the project design will visually complement the varied character of existing development in the surrounding area, and are anticipated to be a significant improvement over the relatively deteriorated state of the previous restaurant building. The proposed facade treatment and varied articulating features incorporated into the design of the building will be sensitive to adjoining commercial development in this portion of Mission Boulevard, as well as residential uses to the south and west. Implementation of the project's concept landscape plan will contribute to the aesthetic appearance of the project site as viewed from adjacent properties and public rights-of-way.

Subject to conditions of approval identified in the Planned Development Permit/Coastal Development Permit prepared for this project, the proposed development will be beneficial to the community.

E. ANY PROPOSED DEVIATIONS PURSUANT TO SECTION 126.0602(b)(1) ARE APPROPRIATE FOR THIS LOCATION AND WILL RESULT IN A MORE DESIRABLE PROJECT THAN WOULD BE ACHIEVED IF DESIGNED IN STRICT CONFORMANCE WITH THE DEVELOPMENT REGULATIONS OF THE APPLICABLE ZONE.

The proposed deviations to the maximum front and street side setback requirements are appropriate for this location and are consistent with the development pattern of existing improvements in the vicinity of the subject property. They are appropriate to achieve the Land Development Code intent to allow greater flexibility from the strict application of the regulations, as well as the reasonable imposition of development regulations and criteria that take into consideration the previous building configuration and placement. The provision of outdoor amenities, including two outdoor public plaza areas and miscellaneous public improvements, will afford a project that is more desirable overall than that which would be achieved if designed in strict conformance with development regulations of the CV-1-2 zone.

COASTAL DEVELOPMENT PERMIT FINDINGS:

A. THE PROPOSED COASTAL DEVELOPMENT WILL NOT ENCROACH UPON ANY EXISTING PHYSICAL ACCESSWAY THAT IS LEGALLY USED BY THE PUBLIC OR ANY PROPOSED PUBLIC ACCESSWAY IDENTIFIED IN A LOCAL COASTAL PROGRAM LAND USE PLAN; AND THE PROPOSED COASTAL DEVELOPMENT WILL ENHANCE AND PROTECT PUBLIC VIEWS TO AND ALONG THE OCEAN AND OTHER SCENIC COASTAL AREAS AS SPECIFIED

IN THE LOCAL COASTAL PROGRAM LAND USE PLAN.

No portion of the subject property is identified in the City's adopted Local Coastal Program land use plan or the Pacific Beach Community Plan as a legally utilized public accessway. Public access along Garnet Avenue will be enhanced with the removal of an existing driveway and replacement with full height curb, gutter and sidewalk. The placement and configuration of the proposed improvements are such that no public views to and along the ocean and other scenic coastal areas from Mission Boulevard and Garnet Avenue will be impacted.

B. THE PROPOSED COASTAL DEVELOPMENT WILL NOT ADVERSELY AFFECT ENVIRONMENTALLY SENSITIVE LANDS.

The entire site has been graded and paved in accordance with construction of the existing commercial building. As a result, the site contains no environmentally sensitive resources.

A fossil fuel filter is proposed to be incorporated in the storm drain catch basin located in the southeast corner of the project's parking lot to reduce pollutant and contamination levels from parking lot surface run-off to an insignificant level.

No adverse impact upon environmentally sensitive lands is anticipated, and the project has been exempted per the California Environmental Quality Act (CEQA).

C. THE PROPOSED COASTAL DEVELOPMENT IS IN CONFORMITY WITH THE CERTIFIED LOCAL COASTAL PROGRAM LAND USE PLAN AND COMPLIES WITH ALL REGULATIONS OF THE CERTIFIED IMPLEMENTATION PROGRAM.

The proposed building and site improvements are consistent with the recommended land use and development standards in effect for this site per the certified Local Coastal Program land use plan, which recommends that the subject property be developed with land uses consistent with the CV-1-2 zone. The project is consistent with the Pacific Beach

Community Plan goal of encouraging, "visitor-commercial facilities which are compatible with the community's overall development...(including) establishments for food and beverage service."

D. FOR EVERY COASTAL DEVELOPMENT PERMIT ISSUED FOR ANY COASTAL DEVELOPMENT BETWEEN THE NEAREST PUBLIC ROAD AND THE SEA OR THE SHORELINE OF ANY BODY OF WATER LOCATED WITHIN THE COASTAL OVERLAY ZONE THE COASTAL DEVELOPMENT IS IN CONFORMITY WITH THE PUBLIC ACCESS AND PUBLIC RECREATION POLICIES OF CHAPTER 3 OF THE CALIFORNIA COASTAL ACT.

The proposed development conforms to the public access policies of Chapter 3 of the California Coastal Act. No portion of the subject property is identified in the City's adopted Local Coastal Program land use plan or the Pacific Beach Community Plan as a legally utilized public accessway. Therefore, the reconstruction of the existing building and proposed on-site improvements will not interfere with the public's right of access to the ocean.

The proposed development conforms to the public recreation policies of Chapter 3 of the California Coastal Act. The subject site is located approximately 400-feet from the mean high tide line and separated from the ocean by existing development. No portion of the

subject property is identified in the City's adopted Local Coastal Program land use plan or the Pacific Beach Community Plan as a public recreational opportunity. Therefore, the reconstruction of the existing building and proposed on-site improvements will not impact public recreational activities along the ocean.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Council of the City of San Diego, Planned Development Permit and Coastal Development Permit No. 40-0270 is hereby GRANTED by the City Council to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 40-0270, a copy of which is attached hereto and made a part hereof.

CASEY GWINN, CITY ATTORNEY

Mary Jo Lanzafame
Deputy City Attorney

Adopted on: October 17, 2000